

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

Page 1 of 2

**DOCKET NO.:** 2004-0077-MWD-E **TCEQ ID:** Texas Pollutant Discharge Elimination System ("TPDES")Permit No. 10540-001, Regulated Entity ID No. RN101721025 **CASE NO.:** 12092**RESPONDENT NAME:** City of Brownsboro

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> City of Brownsboro Wastewater Treatment Plant, Farm-to-Market Road 314 at the north end of the highway bridge over Kickapoo Creek, Henderson County</p> <p><b>TYPE OF OPERATION:</b> Wastewater treatment</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on July 16, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b> <b>TCEQ Attorney/SEP Coordinator:</b> None <b>TCEQ Enforcement Coordinator:</b> Mr. Michael Meyer, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-4492; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896 <b>Respondent:</b> The Honorable Ronny K. Harris, Mayor, City of Brownsboro, P.O. Box 303, Brownsboro, Texas 75756 <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Dates of Investigations Relating to this Case:</b> June 24, 2003 and January 15, 2004</p> <p><b>Date of NOE Relating to this Case:</b> January 20, 2004 (NOE)</p> <p><b>Background Facts:</b> These were routine record reviews. Two violations were documented.</p> <p><b>WATER</b></p> <p>1) Failed to meet its permitted daily average five-day biochemical oxygen demand (BOD<sub>5</sub>) loading limit of 17 pounds per day (lbs/day) and its daily average BOD<sub>5</sub> concentration limit of 30 milligrams per liter (mg/L) for the months of January and February 2003. In addition, the Respondent exceeded its daily average flow limit of 0.067 MGD for the months of March through May 2002, October 2002, December 2002 through February 2003 [30 TEX. ADMIN. CODE § 305.125(1) TPDES Permit No. 10540-001 and TEX. WATER CODE § 26.121(a)].</p> <p>2) Failed to receive authorization from the TCEQ to commence construction of the additional treatment or collection facilities when the flow measurements reached 90 percent of the permitted daily average flow limit (0.067 MGD) for three consecutive months (February through April 2002) [TPDES Permit No. 10540-001, Operational Requirements No. 8.a. and 30 TEX. ADMIN. CODE § 305.126(a)].</p>	<p><b>Total Assessed:</b> \$6,800</p> <p><b>Total Deferred:</b> \$1,360  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$5,440</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that Brownsboro, in December 2005, received authorization to construct and completed construction of a dual Imhoff tank along with new sludge drying beds for the existing wastewater treatment facility. Brownsboro has been compliant with the effluent quality limitations of TPDES Permit No. 10540-001 since March 2006.</p>



Policy Revision 2 (09/02)

## Penalty Calculation Worksheet (PCW)

PCW Revision 6/12/2003

## DATES

PCW 18-Dec-2006

Screening 21-Jan-2004

Priority Due 20-May-2004

EPA Due

## RESPONDENT INFORMATION

Respondent City of Brownsboro

Respondent/Site ID No(s) Regulated Entity ID No. RN101721025

Facility/Site Region 5 - Tyler

Major/Minor Source Minor

## CASE INFORMATION

Enf./Case ID No(s) TPDES Permit No. 10540-001, CCEDS Case No. 12092

Docket No. 2004-0077-MWD-E

No. Violations 2

Case Priority 3

Order Type 1660 with deferral

Enf. Coordinator Michael Meyer

EC's Team Enforcement Team D

Media Program(s) Water Quality

Admin. Penalty \$ Limit

Minimum \$0

Maximum \$10,000

## Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$4,000

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

## Compliance History

80% Enhancement

Subtotals 2, 3 &amp; 7 \$3,200

Notes

The Respondent had 16 self-reported effluent violations for the months of 6/01, 12/01, 1/02-5/02, 10/02, 12/02-6/03 and 9/03.

## Culpability

0% Enhancement

Subtotal 4 \$0

No Select Yes/No

Notes

The Respondent does not meet the culpability criteria.

## Good Faith Effort to Comply

0% Reduction

Subtotal 5 \$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

None of the above

X

(mark with small x)

Notes

The Respondent returned to compliance in March 2006.

## Economic Benefit

0% Enhancement\*

Subtotal 6 \$0

\$7,149

Total EB Amounts

\*Capped at the Total EB \$ Amount

\$25,000

Approx. Cost of Compliance

=

## SUM OF SUBTOTALS 1-7

Final Subtotal \$7,200

## OTHER FACTORS AS JUSTICE MAY REQUIRE

-5.5500 Reduction

Adjustment -\$400

Reduces or enhances the Final Subtotal by the indicated percentage. (enter number only; e.g. -30 for -30%)

Notes

Recommend reduction in penalty so that monthly self-reported violations don't overly impact the penalty amount.

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Final Penalty Amount \$6,800

## STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$6,800

## DEFERRAL

Deferral 20% Reduction

Adjustment \$1,360

Reduces the Final Assessed Penalty by the indicated percentage. (enter number only; e.g. 20 for 20% reduction)

Notes

There are no previous NOV's for same or similar violations.

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## PAYABLE PENALTY

\$5,440

<b>Screening Date</b>	21-Jan-2004	<b>Docket Number</b>	2004-0077-MWD-E	<b>PCW</b>
<b>Respondent</b>	City of Brownsboro			<b>Policy Revision 2 (09/02)</b>
<b>Case ID No.</b>	TPDES Permit No. 10540-001, CCEDS Case No. 12092			<b>PCW Revision 6/12/2003</b>
<b>Respondent/Site ID No.</b>	Regulated Entity ID No. RN101721025			
<b>Media [Statute]</b>	Water Quality			
<b>Enf. Coordinator</b>	Michael Meyer			
<b>Site Address</b>	Farm-to-Market Road 314 at the north end of the highway bridge over Kickapoo Creek in Henderson County			

### Compliance History Worksheet

#### >> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	16	80%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) **80%**

#### >> Repeat Violator (Subtotal 3)

No ☐ Select Yes/No

Adjustment Percentage (Subtotal 3) **0%**

#### >> Compliance History Person Classification (Subtotal 7)

Average Performer ☐ Select High, Average or Poor

Adjustment Percentage (Subtotal 7) **0%**

#### Compliance History Summary

Compliance  
History  
Notes

The Respondent had 16 self-reported effluent violations for the months of 6/01, 12/01, 1/02-5/02, 10/02, 12/02-6/03 and 9/03.

**Total Adjustment Percentage (Subtotals 2, 3 & 7) 80%**

<b>Screening Date</b> 21-Jan-04		<b>Docket Number</b> 2004-0077-MWD-E		<b>PCW</b>	
<b>Respondent</b> City of Brownsboro				Policy Revision 2 (09/02)	
<b>Case ID No.</b> TPDES Permit No. 10540-001, CCEDS Case No. 12092				PCW Revision 6/12/2003	
<b>Respondent/Site ID No.</b> Regulated Entity ID No. RN101721025					
<b>Media [Statute]</b> Water Quality					
<b>Enf. Coordinator</b> Michael Meyer					
<b>Violation Number</b> 1					
<b>Primary Rule Cite</b>		Tex. Water Code § 26.121(a) and Texas Pollutant Discharge Elimination System Permit No. 10540-001.			
<b>Secondary Cite(s)</b>					
<b>Violation Description</b>		Failed to meet its permitted daily average five-day biochemical oxygen demand (BOD5) loading limit of 17 pounds per day (lbs/day) and its permitted daily average BOD5 concentration limit of 30 milligrams per liter (mg/L) for the months of 2/03-3/03. In addition, the Respondent exceeded its daily average flow limit of 0.067 million gallons per day (MGD) for the months of 3/02-5/02, 10/02, 12/02-02/03.			
				<b>Base Penalty</b>	\$10,000
» Environmental, Property and Human Health Matrix					
<b>Harm</b>					
		Release			
		Major      Moderate      Minor			
<b>OR</b>	Actual			x	
	Potential				
				<b>Percent</b>	10%
» Programmatic Matrix					
		Falsification			
		Major      Moderate      Minor			
<b>OR</b>					
				<b>Percent</b>	
<b>Matrix Notes</b>	A simplified model was used to determine the impact of the BOD violations upon the receiving waters. In addition to the model, the distance to the classified stream segment, in this case approximately four to five miles, was also considered in determining the impact of the violations. Based on these factors it was determined that human health and the environment was exposed to insignificant amounts of pollutants which did not exceed levels protective of human health or environmental receptors.				
				<b>Adjustment</b>	-\$9,000
				<b>Base Penalty Subtotal</b>	\$1,000
Violation Events					
<b>Number of Violation Events</b>		3			
<i>mark only one; use small x</i>	<b>daily</b>				
	<b>monthly</b>				
	<b>quarterly</b>	x			
	<b>semiannual</b>				
	<b>annual</b>				
	<b>single event</b>				
				<b>Violation Base Penalty</b>	\$3,000
<b>Events Notes</b>	The event period is for the months of 3/02-5/02, 10/02, 12/02 and 1/02-2/02.				
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>		
<b>Estimated EB Amount (\$)</b>		\$7,149		<b>Violation Final Penalty total</b>	
				\$5,100	
<b>This Violation Final Assessed Penalty (adjusted for limits)</b>				\$5,100	

**Economic Benefit Worksheet**

**Respondent** City of Brownsboro  
**ID Number(s)** TPDES Permit No. 10540-001, CCEDS Case No. 12092  
**Media [Statute]** Water Quality  
**Violation Number** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)	\$25,000	1-Mar-2002	31-Mar-2006	4.1	\$340	\$6,808	\$7,149
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost for wastewater treatment expansion projects. Date Required is the first month of noncompliance. Final Date is the date the Facility returned to compliance with effluent limits.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance \$25,000

TOTAL

\$7,149

<b>Screening Date</b> 21-Jan-04		<b>Docket Number</b> 2004-0077-MWD-E		<b>PCW</b>	
<b>Respondent</b> City of Brownsboro		Policy Revision 2 (09/02)			
<b>Case ID No.</b> TPDES Permit No. 10540-001, CCEDS Case No. 12092		PCW Revision 6/12/2003			
<b>Respondent/Site ID No.</b> Regulated Entity ID No. RN101721025					
<b>Media [Statute]</b> Water Quality					
<b>Enf. Coordinator</b> Michael Meyer					
<b>Violation Number</b>		<div style="border: 1px solid black; padding: 2px; text-align: center;">2</div>			
<b>Primary Rule Cite</b>		<div style="border: 1px solid black; padding: 2px;">TPDES Permit No. 15040-001, Operational Requirements No. 8.a. and 30 Tex. Admin. Code § 305.126(a)</div>			
<b>Secondary Cite(s)</b>		<div style="border: 1px solid black; padding: 2px;"></div>			
<b>Violation Description</b>		<div style="border: 1px solid black; padding: 5px;">The respondent failed to receive authorization from the TCEQ to commence construction of the additional treatment or collection facilities when the flow measurements reached 90 percent of the permitted daily average flow limit (0.067MGD) for three consecutive months (2/02-4/02), as documented by a file review conducted by the TCEQ Enforcement Division on 1/15/04.</div>			
<b>Base Penalty</b>					\$10,000
» Environmental, Property and Human Health Matrix					
<b>Harm</b>					
<b>Release</b>		Major	Moderate	Minor	
<b>OR</b>	Actual	<div style="border: 1px solid black; width: 60px; height: 15px;"></div>	<div style="border: 1px solid black; width: 60px; height: 15px;"></div>	<div style="border: 1px solid black; width: 60px; height: 15px;"></div>	
	Potential	<div style="border: 1px solid black; width: 60px; height: 15px;"></div>	<div style="border: 1px solid black; width: 60px; height: 15px;"></div>	<div style="border: 1px solid black; width: 60px; height: 15px;"></div>	
<b>Percent</b>					<div style="border: 1px solid black; width: 60px; height: 15px;"></div>
» Programmatic Matrix					
Falsification		Major	Moderate	Minor	
<b>OR</b>		x	<div style="border: 1px solid black; width: 60px; height: 15px;"></div>	<div style="border: 1px solid black; width: 60px; height: 15px;"></div>	
<b>Percent</b>					10%
<b>Matrix Notes</b>	<div style="border: 1px solid black; padding: 5px;">100 percent of the rule requirement was not met.</div>				
<b>Adjustment</b>					-\$9,000
<b>Base Penalty Subtotal</b>					\$1,000
<b>Violation Events</b>					
<b>Number of Violation Events</b>		<div style="border: 1px solid black; padding: 2px; text-align: center;">1</div>			
.....					
.....					
.....					
.....					
.....					
<b>Violation Base Penalty</b>					\$1,000
<b>Events Notes</b>	<div style="border: 1px solid black; padding: 5px;">A single event is recommended based on a file review conducted on 1/15/04.</div>				
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>		
<b>Estimated EB Amount (\$)</b>		<div style="border: 1px solid black; padding: 2px; text-align: center;">\$0</div>	<b>Violation Final Penalty total</b>		\$1,700
<b>This Violation Final Assessed Penalty (adjusted for limits)</b>					\$1,700

**Economic Benefit Worksheet****Respondent** City of Brownsboro**ID Number(s)** TPDES Permit No. 10540-001, CCEDS Case No. 12092**Media [Statute]** Water Quality**Violation Number** 2**Percent  
Interest****Years of  
Depreciation**

5.0

15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

**Notes for DELAYED costs**

See economic benefit for Violation No. 1.

**Avoided Costs****ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

**Notes for AVOIDED costs****Approx Cost of Compliance** \$0**TOTAL**

\$0



## table rev. 12/11/2000

City of Brownsboro

TPDES Permit No. 10540-001

2004-0077-MWD-E

Michael Meyer

1

[illegible]



# Compliance History

Customer/Respondent/Owner-Operator:	CN600655641	City of Brownsboro	Classification: AVERAGE	Rating: 1.96
Regulated Entity:	RN101721025	CITY OF BROWNSBORO	Classification: AVERAGE	Site Rating: 0.92
ID Number(s):	WASTEWATER	PERMIT	WQ0010540001	
	WASTEWATER	PERMIT	TPDES0062707	
	WASTEWATER	PERMIT	TX0062707	
	WASTEWATER LICENSING	LICENSE	WQ0010540001	
Location:	FM 314 NORTH, BROWNSBORO, TX, 75756		Rating Date: 9/1/2003 Repeat Violator: NO	
TCEQ Region:	REGION 05 - TYLER			
Date Compliance History Prepared:	July 24, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	January 06, 1999 to January 06, 2004			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Michael Meyer	Phone:	(512)239-4492	

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 04/15/1999 (309567)
- 2 04/15/1999 (309568)
- 3 04/15/1999 (309571)
- 4 07/16/1999 (309572)
- 5 07/16/1999 (309573)
- 6 07/27/1999 (309574)
- 7 10/11/1999 (309575)
- 8 10/11/1999 (309577)
- 9 10/11/1999 (191470)
- 10 01/13/2000 (191482)
- 11 01/13/2000 (191478)
- 12 01/13/2000 (191474)
- 13 04/17/2000 (191437)
- 14 04/17/2000 (191445)
- 15 04/17/2000 (191444)
- 16 07/26/2000 (191456)
- 17 07/26/2000 (191452)
- 18 07/26/2000 (191449)
- 19 10/16/2000 (191467)
- 20 10/16/2000 (191464)
- 21 10/16/2000 (191460)
- 22 01/24/2001 (191479)



23	01/24/2001	(191475)
24	01/24/2001	(191471)
25	03/28/2001	(38893)
26	04/17/2001	(191441)
27	04/17/2001	(191438)
28	04/17/2001	(191446)
29	07/13/2001	(191457)
30	07/13/2001	(191453)
31	10/19/2001	(191468)
32	10/19/2001	(191465)
33	10/19/2001	(191461)
34	01/22/2002	(191480)
35	01/22/2002	(191476)
36	01/22/2002	(191472)
37	04/16/2002	(191442)
38	04/16/2002	(191439)
39	04/16/2002	(191447)
40	07/12/2002	(191458)
41	07/12/2002	(191454)
42	07/12/2002	(191450)
43	10/10/2002	(191469)
44	10/10/2002	(191466)
45	10/10/2002	(191462)
46	01/17/2003	(191481)
47	01/17/2003	(191477)
48	01/17/2003	(191473)
49	04/11/2003	(191443)
50	04/11/2003	(191448)
51	04/16/2003	(191440)
52	06/05/2003	(61600)
53	07/11/2003	(191459)
54	07/11/2003	(191455)
55	07/11/2003	(191451)
56	08/05/2003	(191463)
57	10/10/2003	(309576)
58	10/10/2003	(309578)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	06/30/2001	(191457)		
Self Report?	YES		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	12/31/2001	(191480)		
Self Report?	YES		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	01/31/2002	(191439)		
Self Report?	YES		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	02/28/2002	(191442)		
Self Report?	YES		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	03/31/2002	(191447)		
Self Report?	YES		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			



Date: 04/30/2002 (191450)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 05/31/2002 (191454)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 10/31/2002 (191473)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 12/31/2002 (191481)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 01/31/2003 (191440)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 02/28/2003 (191443)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 03/31/2003 (191448)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 04/30/2003 (191451)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 05/31/2003 (191455)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 06/30/2003 (191459)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 09/30/2003 (309578)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A





I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF BROWNSBORO  
TEXAS POLLUTANT DISCHARGE  
ELIMINATION SYSTEM ("TPDES")  
PERMIT NO. 10540-001  
REGULATED ENTITY ID NO.  
RN101721025**

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**BEFORE THE**

**TEXAS COMMISSION ON**

**ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2004-0077-MWD-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of Brownsboro ("Brownsboro") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division and Brownsboro appear before the Commission and together stipulate that:

1. Brownsboro owns and operates a wastewater treatment plant located at Farm-to-Market Road 314 at the north end of the highway bridge over Kickapoo Creek in Henderson County, Texas (the "Facility").
2. Brownsboro has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and Brownsboro agree that the Commission has jurisdiction to enter this Agreed Order, and that Brownsboro is subject to the Commission's jurisdiction.
4. Brownsboro received notice of the violations alleged in Section II ("Allegations") on or about January 25, 2004.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Brownsboro of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Six Thousand Eight Hundred Dollars (\$6,800) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Brownsboro has paid Five Thousand Four Hundred Forty Dollars (\$5,440) of the administrative penalty and One Thousand Three Hundred Sixty Dollars (\$1,360) is deferred contingent upon Brownsboro's timely and



satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Brownsboro fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Brownsboro to pay all or part of the deferred penalty.

7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Brownsboro have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Brownsboro, in December 2005, received authorization to construct and completed construction of a dual Imhoff tank along with new sludge drying beds for the existing wastewater treatment facility. Brownsboro has been compliant with the effluent quality limitations of TPDES Permit No. 10540-001 since March 2006.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Brownsboro has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, Brownsboro is alleged to have failed to meet its permitted daily average five-day biochemical oxygen demand ("BOD<sub>5</sub>") loading limit of 17 pounds per day ("lbs/day") and its daily average BOD<sub>5</sub> concentration limit of 30 milligrams per liter ("mg/L") for the months of January and February 2003. In addition, Brownsboro exceeded its daily average flow limit of 0.067 million gallons per day ("MGD") for the months of March through May 2002, October 2002, and December 2002 through February 2003, in violation of 30 TEX. ADMIN. CODE § 305.125(1) TPDES Permit No. 10540-001 and TEX. WATER CODE § 26.121(a), as documented during record reviews conducted on June 24, 2003 and January 15, 2004, and listed in the table below:

1. The first part of the document is a letter from the President of the United States to the Congress, dated January 1, 1861. It is a very important document, as it contains the President's message to the Congress at the beginning of his first term.

2. The second part of the document is a report from the Secretary of the Treasury, dated January 1, 1861. It contains information about the state of the Treasury and the country's finances at the beginning of the year.

3. The third part of the document is a report from the Secretary of the Interior, dated January 1, 1861. It contains information about the state of the Interior and the country's resources at the beginning of the year.

4. The fourth part of the document is a report from the Secretary of the War, dated January 1, 1861. It contains information about the state of the War and the country's military at the beginning of the year.

5. The fifth part of the document is a report from the Secretary of the Navy, dated January 1, 1861. It contains information about the state of the Navy and the country's naval forces at the beginning of the year.

6. The sixth part of the document is a report from the Secretary of the State, dated January 1, 1861. It contains information about the state of the State and the country's foreign relations at the beginning of the year.

7. The seventh part of the document is a report from the Secretary of the Agriculture, dated January 1, 1861. It contains information about the state of the Agriculture and the country's food supply at the beginning of the year.

8. The eighth part of the document is a report from the Secretary of the Commerce, dated January 1, 1861. It contains information about the state of the Commerce and the country's trade at the beginning of the year.

9. The ninth part of the document is a report from the Secretary of the Education, dated January 1, 1861. It contains information about the state of the Education and the country's schools at the beginning of the year.

10. The tenth part of the document is a report from the Secretary of the Public Works, dated January 1, 1861. It contains information about the state of the Public Works and the country's infrastructure at the beginning of the year.

	Daily Average BOD <sub>5</sub> (lbs/day)	Daily Average BOD <sub>5</sub> (mg/L)	Daily Average Flow (MGD)
<b>Month/Year</b>	17	30	0.067
March 2002	c	c	0.093
April 2002	c	c	0.093
May 2002	c	c	0.068461
October 2002	c	c	0.09
December 2002	c	c	0.0862
January 2003	36.2	64.6	0.07
February 2003	39.1	50.2	0.117

c = compliant

2. Failed to receive authorization from the TCEQ to commence construction of the additional treatment or collection facilities when the flow measurements reached 90 percent of the permitted daily average flow limit (0.067 MGD) for three consecutive months (February through April 2002), in violation of TPDES Permit No. 10540-001, Operational Requirements No. 8.a. and 30 TEX. ADMIN. CODE § 305.126(a), as documented during a file review conducted by the TCEQ Enforcement Division on January 15, 2004.

### III. DENIALS

Brownsboro generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Brownsboro pay an administrative penalty as set forth in Section I, Paragraph 6 above. The imposition of this administrative penalty and Brownsboro's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Brownsboro, Docket No. 2004-0077-MWD-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088





2. The provisions of this Agreed Order shall apply to and be binding upon Brownsboro. Brownsboro is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against Brownsboro in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Brownsboro, or three days after the date on which the Commission mails notice of the Order to Brownsboro, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

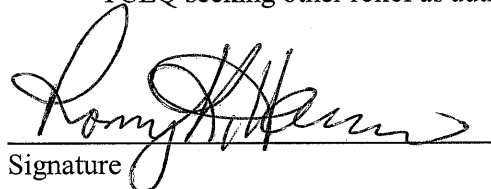
  
\_\_\_\_\_  
For the Executive Director

8/23/2007  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's Office for contempt injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increase penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

  
\_\_\_\_\_  
Signature

5-15-07  
Date

Ronny K. Harris  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
City of Brownsboro

Mayer  
\_\_\_\_\_  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

